

2003 DRAFTING REQUEST**Bill**Received: **11/22/2002**Received By: **gmalaise**Wanted: **As time permits**

Identical to LRB:

For: **Spencer Black (608) 266-7521**By/Representing: **Susan McMurry**This file may be shown to any legislator: **NO**Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Employ Priv - family leave**

Extra Copies:

Submit via email: **YES**Requester's email: **Rep.Black@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

School conference and activities leave

Instructions:

See Attached--redraft 2001 AB 257

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 11/22/2002	kgilfoy 01/09/2003					S&L
/1			pgreensl 01/09/2003		amentkow 01/09/2003	amentkow 01/13/2003	

FE Sent For:

<END>

AA
Intro

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FE Sent For:

11-1/9/03 Kmg	1/9/02 PS	1/9/02 <END>	PS/M				
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Malaise, Gordon

From: McMurray, Susan
Sent: Friday, November 22, 2002 11:27 AM
To: Malaise, Gordon
Subject: draft request

Friday, November 22, 2002

Hi Gordon,

Rep. Black asked me to ask you to please redraft 2001 AB 257 for the coming legislative session.

Please call me if you have questions.

Thank you.

Susan McMurray
Rep. Black's office
266-5124

FRIDAY - JAN. 10
2001³ - 2002⁴ LEGISLATURE

-0859/1
LRB-027241
GMM:km

2001 ASSEMBLY BILL 257

March 30, 2001 - Introduced by Representatives BLACK, SINICKI, TURNER, RICHARDS, MORRIS-TATUM, J. LEHMAN, BOCK, CULLEN, POCAN, MILLER and BERCEAU, cosponsored by Senators GROBSCHMIDT, BURKE, RISSER, ERPENBACH and GEORGE. Referred to Committee on Labor and Workforce Development.

Gen. Cat.

1 AN ACT *to renumber and amend* 103.10 (5) (b); *to amend* 103.10 (title), 103.10
2 (2) (a), 103.10 (2) (c), 103.10 (5) (a), 103.10 (8) (a) (intro.), 103.10 (8) (a) 1., 103.10
3 (8) (a) 2., 103.10 (8) (b), 103.10 (8) (c), 103.10 (9) (a), 103.10 (9) (b), 103.10 (9) (c)
4 4., 103.10 (9) (d), 103.10 (10), 103.10 (12) (d), 103.10 (14) (b), 108.04 (1) (b) 3.
5 (intro.), 111.91 (2) (f), 230.35 (2m), 230.45 (1) (k) and 253.10 (3) (d) 1.; *to repeal*
6 *and recreate* 893.96 (title); and *to create* 103.10 (1) (fr), 103.10 (4m), 103.10
7 (5) (b) 2. and 103.10 (6) (c) of the statutes; **relating to:** school conference and
8 activities leave.

Analysis by the Legislative Reference Bureau

Under current law, an employer, including the state, employing at least 50 individuals on a permanent basis in this state must permit an employee to take six weeks of family leave in a 12-month period and two weeks of medical leave in a 12-month period if that employee has been employed by the employer for more than 52 consecutive weeks and has worked for the employer for at least 1,000 hours during the preceding 52-week period. Family leave may be taken for the birth or adoptive placement of a new child or to care for a child, spouse, or parent who has a serious health condition. Medical leave may be taken when the employee has a serious health condition that makes the employee unable to perform the employee's

who has been employed by the employer for more than 52 consecutive weeks and who has worked for the employer for at least 1,000 hours during the preceding 52-week period

ASSEMBLY BILL 257

employment duties. An employee is not entitled to receive wages or salary while taking family ~~leave~~ or medical leave, but may substitute, for portions of family or medical leave, other types of paid or unpaid leave provided by the employer. An employee who intends to take family or medical leave for the birth or adoptive placement of a child or for planned medical treatment must give the employer advance notice of the birth or adoptive placement or planned medical treatment. In addition, for planned medical treatment, the employee must make a reasonable effort to schedule the medical treatment so that it does not unduly disrupt the operations of the employer. *(including the state)*

This bill allows *any* employee of an employer employing at least 50 individuals on a permanent basis in this state to take no more than 16 hours of school conference and activities leave in a 12-month period. School conference and activities leave may be taken to attend school conferences or classroom activities relating to the employee's child that cannot be scheduled during nonworking hours. In addition, school conference and activities leave may be taken to observe and monitor the day care, preschool, or prekindergarten services or programming received by an employee's child, if that observation and monitoring cannot be scheduled during nonworking hours. An employee is not entitled to receive wages or salary while taking school conference and activities leave, but may substitute, for portions of school conference and activities leave, other types of paid or unpaid leave provided by the employer, except that an employee may not substitute paid leave for school conference and activities leave for attending a school conference or activity for less than one hour. An employee who intends to take leave to attend a school conference or activity must give the employer advance notice of the ~~leave~~ and must make a reasonable effort to schedule the ~~leave~~ so that it does not unduly disrupt the operations of the employer. *(conference or activity)*

For purposes of this bill, "school" means a day care center licensed by the department of health and family services, a day care provider certified for funding by a county department of human services or social services, a day care program established or contracted for by a school board, a public, parochial, or private preschool or prekindergarten, or a public, parochial, or private school that provides an educational program for one or more grades between kindergarten and 12.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 103.10 (title) of the statutes is amended to read:

2 **103.10 (title) Family ~~or~~, medical, and school conference and activities**
3 **leave.**

4 SECTION 2. 103.10 (1) (fr) of the statutes is created to read:

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1 103.10 (1) (fr) "School" means a child care provider, as defined in s. 49.001 (1),
2 a public, parochial, or private preschool or prekindergarten, or a public, parochial,
3 or private school that provides an educational program for one or more grades
4 between kindergarten and 12 and that is commonly known as a kindergarten,
5 elementary school, middle school, junior high school, senior high school, or high
6 school.

7 **SECTION 3.** 103.10 (2) (a) of the statutes is amended to read:

8 103.10 (2) (a) Nothing in this section prohibits an employer from providing
9 employees with rights to family leave ~~or~~, medical leave ~~which~~, or school conference
10 and activities leave that are more generous to the employee than the rights provided
11 under this section.

12 **SECTION 4.** 103.10 (2) (c) of the statutes is amended to read:

13 103.10 (2) (c) This section only applies to an employee who has been employed
14 by the same employer for more than 52 consecutive weeks and who worked for the
15 employer for at least 1,000 hours during the preceding 52-week period, except that
16 for purposes of school conference and activities leave under sub. (4m), this section
17 applies to any employee of an employer.

18 **SECTION 5.** 103.10 (4m) of the statutes is created to read:

19 103.10 (4m) **SCHOOL CONFERENCE AND ACTIVITIES LEAVE.** Subject to sub. (6) (c),
20 an employee may take no more than 16 hours of school conference and activities leave
21 in a 12-month period for the purpose of attending school conferences or classroom
22 activities relating to the employee's child that cannot be scheduled during nonwork
23 hours. An employee may also use the school conference and activities leave provided
24 under this subsection to observe and monitor the services or programming provided
25 to the employee's child by a child care provider, as defined in s. 49.001 (1), or a public,

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SECTION 5

1 private, or parochial preschool or prekindergarten, if that observation and
2 monitoring cannot be scheduled during nonwork hours.

3 SECTION 6. 103.10 (5) (a) of the statutes is amended to read:

4 103.10 (5) (a) This section does not entitle an employee to receive wages or
5 salary while taking family leave ~~or~~ medical leave, or school conference and activities
6 leave.

7 SECTION 7. 103.10 (5) (b) of the statutes is renumbered 103.10 (5) (b) 1. and
8 amended to read:

9 103.10 (5) (b) 1. An Subject to subd. 2., an employee may substitute, for portions
10 of family leave ~~or~~ medical leave, or school conference and activities leave, paid or
11 unpaid leave of any other type provided by the employer.

12 SECTION 8. 103.10 (5) (b) 2. of the statutes is created to read:

13 103.10 (5) (b) 2. Notwithstanding subd. 1.,[✓] an employee may not substitute paid
14 leave for school conference and activities leave for attending a school conference or
15 activity for less than one hour.

16 SECTION 9. 103.10 (6) (c) of the statutes is created to read:

17 103.10 (6) (c) If an employee intends to take leave under sub. (4m)[✓] for the
18 purpose of attending a school conference or activity, the employee shall do all of the
19 following:

20 1. Make a reasonable effort to schedule the ~~leave~~ ^{conference or activity} so that it does not unduly
21 disrupt the employer's operations.

22 2. Give the employer advance notice of the ~~leave~~ ^{conference or activity} in a reasonable and practicable
23 manner.

24 SECTION 10. 103.10 (8) (a) (intro.) of the statutes is amended to read:

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1 103.10 (8) (a) (intro.) Subject to par. (c), when an employee returns from family
2 leave ~~or~~ medical leave, or school conference and activities leave, his or her employer
3 shall immediately place the employee in an employment position as follows:

4 **SECTION 11.** 103.10 (8) (a) 1. of the statutes is amended to read:

5 103.10 (8) (a) 1. If the employment position which the employee held
6 immediately before the family leave ~~or~~ medical leave, or school conference and
7 activities leave began is vacant when the employee returns, in that position.

8 **SECTION 12.** 103.10 (8) (a) 2. of the statutes is amended to read:

9 103.10 (8) (a) 2. If the employment position which the employee held
10 immediately before the family leave ~~or~~ medical leave, ^{*school conference*} or school conference and
11 activities leave began is not vacant when the employee returns, in an equivalent
12 employment position having equivalent compensation, benefits, working shift,
13 hours of employment ^{*and*} and other terms and conditions of employment.

14 **SECTION 13.** 103.10 (8) (b) of the statutes is amended to read:

15 103.10 (8) (b) No employer may, because an employee received family leave ~~or~~,
16 medical leave, or school conference and activities leave, reduce or deny an
17 employment benefit ^{*that*} ~~which~~ accrued to the employee before his or her leave began or,
18 consistent with sub. (9), accrued after his or her leave began.

19 **SECTION 14.** 103.10 (8) (c) of the statutes is amended to read:

20 103.10 (8) (c) Notwithstanding par. (a), if an employee on [✓]~~a~~ family, medical ~~or~~
21 family, or school conference and activities leave wishes to return to work before the
22 end of the leave as scheduled, the employer shall place the employee in an
23 employment position of the type described in par. (a) 1. or 2. within a reasonable time
24 not exceeding the duration of the leave as scheduled.

25 **SECTION 15.** 103.10 (9) (a) of the statutes is amended to read:

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SECTION 15

1 103.10 (9) (a) Except as provided in par. (b), nothing in this section entitles a
2 returning employee to a right, employment benefit or employment position to which
3 the employee would not have been entitled had he or she not taken family leave or,
4 medical leave, or school conference and activities leave or to the accrual of any
5 seniority or employment benefit during a period of family leave or, medical leave, or
6 school conference and activities leave.

7 SECTION 16. 103.10 (9) (b) of the statutes is amended to read:

8 103.10 (9) (b) Subject to par. (c), during a period an employee takes family leave
9 or, medical leave, or school conference and activities leave, his or her employer shall
10 maintain group health insurance coverage under the conditions that applied
11 immediately before the family leave or, medical leave, or school conference and
12 activities leave began. If the employee continues making any contribution required
13 for participation in the group health insurance plan, the employer shall continue
14 making group health insurance premium contributions as if the employee had not
15 taken the family leave or, medical leave, or school conference and activities leave.

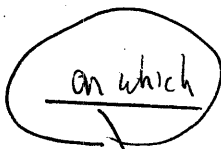
16 SECTION 17. 103.10 (9) (c) 4. of the statutes is amended to read:

17 103.10 (9) (c) 4. If an employee ends his or her employment with an employer
18 during or within 30 days after a period of family leave or, medical leave, or school
19 conference and activities leave, the employer may deduct from the amount returned
20 to the employee under subd. 3. any premium or similar expense paid by the employer
21 for the employee's group health insurance coverage while the employee was on family
22 leave or, medical leave, or school conference and activities leave.

23 SECTION 18. 103.10 (9) (d) of the statutes is amended to read:

24 103.10 (9) (d) If an employee ends his or her employment with an employer
25 during or at the end of a period of family leave or, medical leave, or school conference

ASSEMBLY BILL 257


on which

1 and activities leave, the time period for conversion to individual coverage under s.
2 632.897 (6) shall be calculated as beginning on the day ~~that~~ the employee began the
3 period of family leave ~~or~~, medical leave, or school conference and activities leave.

4 SECTION 19. 103.10 (10) of the statutes is amended to read:

5 103.10 (10) ALTERNATIVE EMPLOYMENT. Nothing in this section prohibits an
6 employer and an employee with a serious health condition from mutually agreeing
7 to alternative employment for the employee while the serious health condition lasts.
8 No period of alternative employment, with the same employer, reduces the
9 employee's right to family leave ~~or~~, medical leave, or school conference and activities
10 leave.

11 SECTION 20. 103.10 (12) (d) of the statutes is amended to read:

12 103.10 (12) (d) The department shall issue its decision and order within 30 days
13 after the hearing. If the department finds that an employer violated sub. (11) (a) or
14 (b), it may order the employer to take action to remedy the violation, including
15 providing the requested family leave ~~or~~, medical leave, or school conference and
16 activities leave, reinstating an employee, providing back pay accrued not more than
17 2 years before the complaint was filed ² and paying reasonable actual attorney fees to
18 the complainant.

19 SECTION 21. 103.10 (14) (b) of the statutes is amended to read:

20 103.10 (14) (b) Any person employing at least 25 individuals shall post, in one
21 or more conspicuous places where notices to employees are customarily posted, a
22 notice describing the person's policy with respect to leave for the reasons described
23 in subs. (3) (b) ~~and~~, (4) (a), and (4m).

24 SECTION 22. 108.04 (1) (b) 3. (intro.) of the statutes is amended to read:

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Family and Medical Leave Act

1 plan 108.04 (1) (b) 3. (intro.) While the employee is on family or medical leave under
2 the federal family and medical leave act of 1993 (P.L. 103-3), 29 USC 2601 to 2654,
3 or s. 103.10 or school conference and activities leave under s. 103.10, until whichever
4 of the following occurs first:

5 SECTION 23. 111.91 (2) (f) of the statutes is amended to read:

6 111.91 (2) (f) Family leave and medical leave rights below the minimum
7 afforded under the federal family and medical leave act of 1993, 29 USC 2601 to 2654,
8 and s. 103.10 and school conference and activities leave rights below the minimum
9 afforded under s. 103.10. Nothing in this paragraph prohibits the employer from
10 bargaining on rights to family leave or medical leave which are more generous to the
11 employee than the rights provided under the federal family and medical leave act of
12 1993, 29 USC 2601 to 2654, and s. 103.10 and on rights to school conference and
13 activities leave which are more generous to the employee than the rights provided
14 under s. 103.10. conference and that

15 SECTION 24. 230.35 (2m) of the statutes is amended to read:

16 230.35 (2m) An employee shall be eligible for medical or family leave under s.
17 103.10 upon the expiration, extension, or renewal of any collective bargaining
18 agreement in effect on April 26, 1988, which covers the employee. An employee shall
19 be eligible for school activities leave under s. 103.10 upon the expiration, extension,
20 or renewal of any collective bargaining agreement in effect on the effective date of
21 this subsection ... [revisor inserts date], which covers the employee. that

22 SECTION 25. 230.45 (1) (k) of the statutes is amended to read:

23 230.45 (1) (k) Receive and process complaints of violations relating to family
24 or, medical, or school activities leave under s. 103.10 (12).

25 SECTION 26. 253.10 (3) (d) 1. of the statutes is amended to read:

conference and

ASSEMBLY BILL 257

253.10 (3) (d) 1. Geographically indexed materials that are designed to inform a woman about public and private agencies, including adoption agencies, and services that are available to provide information on family planning, as defined in s. 253.07 (1) (a), including natural family planning information, to provide ultrasound imaging services, to assist her if she has received a diagnosis that her unborn child has a disability or if her pregnancy is the result of sexual assault or incest, and to assist her through pregnancy, upon childbirth, and while the child is dependent. The materials shall include a comprehensive list of the agencies available, a description of the services that they offer, and a description of the manner in which they may be contacted, including telephone numbers and addresses, or, at the option of the department, the materials shall include a toll-free, 24-hour telephone number that may be called to obtain an oral listing of available agencies and services in the locality of the caller and a description of the services that the agencies offer and the manner in which they may be contacted. The materials shall provide information on the availability of governmentally funded programs that serve pregnant women and children. Services identified for the woman shall include medical assistance for pregnant women and children under s. 49.47 (4) (am), the availability of family ~~or~~, medical, and school conference and activities leave under s. 103.10, the Wisconsin works program under ss. 49.141 to 49.161, child care services, child support laws and programs, and the credit for expenses for household and dependent care and services necessary for gainful employment under section 21 of the ~~internal revenue code~~. The materials shall state that it is unlawful to perform an abortion for which consent has been coerced, that any physician who performs or induces an abortion without obtaining the woman's voluntary and informed consent is liable to her for damages in a civil action and is subject to a civil penalty, that the

Internal Revenue Code

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1 father of a child is liable for assistance in the support of the child, even in instances
2 in which the father has offered to pay for an abortion, and that adoptive parents may
3 pay the costs of prenatal care, childbirth, and neonatal care. The materials shall
4 include information, for a woman whose pregnancy is the result of sexual assault or
5 incest, on legal protections available to the woman and her child if she wishes to
6 oppose establishment of paternity or to terminate the father's parental rights. The
7 materials shall state that fetal ultrasound imaging and auscultation of fetal heart
8 tone services are obtainable by pregnant women who wish to use them and shall
9 describe the services.

10 **SECTION 27.** 893.96 (title) of the statutes is repealed and recreated to read:

11 **893.96 (title) Family, medical, and school conference and activities**
12 **leave; civil remedies.**

13 **SECTION 28. Initial applicability.**

14 (1) This act first applies to an employee, as defined in section 103.10 (1) (b) of
15 the statutes, who is affected by a collective bargaining agreement that contains
16 provisions inconsistent with this act on the day on which the collective bargaining
17 agreement expires or is extended, modified, or renewed, whichever occurs first.

18 **SECTION 29. Effective date.**

19 (1) This act takes effect on the first day of the 6th month beginning after
20 publication.

21 (END)

Mentkowski, Annie

From: Zimmerman, Terri
Sent: Monday, January 13, 2003 3:14 PM
To: LRB.Legal
Subject: Draft review: LRB-0859/1 Topic: School conference and activities leave

It has been requested by <Zimmerman, Terri> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-0859/1 Topic: School conference and activities leave